

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एम बाला गणेश, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2775/Chny/2017

निर्धारण वर्ष /**Assessment Year: 2000-01**

The Asst. Commissioner of Income Tax,
Circle-1,
Namakkal.

M/s. Seshasayee Paper &
Boards Ltd.,
Kaveri RS Post,
Vs. Pallipalayam,
Namakkal – 638 007.
[PAN: AACCS 1192G]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

आयकर अपील सं./ITA No.2834/Chny/2017

निर्धारण वर्ष /**Assessment Year: 2000-01**

M/s. Seshasayee Paper & Boards Ltd.,
Kaveri RS Post, Pallipalayam,
Namakkal – 638 007.

The Asst. Commissioner of
Income Tax, Circle-1,
Vs. Namakkal.

[PAN: AACCS 1192G]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Assessee by

: Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Mrs. Vijayaprabha, JCIT

सुनवाई की तारीख/Date of Hearing

: 25.02.2020

घोषणा की तारीख /Date of Pronouncement

: 25.02.2020

आदेश / ORDER

PER SHRI MAHAVIR SINGH, VICE PRESIDENT:

These cross appeals, by the assessee and Revenue, are arising out
of the order of CIT(A), Salem, in ITA No.76/2009-10 dated 31.08.2017. The

Assessment was framed by DCIT, Central Circle-II(1), Chennai for the relevant A.Y. 2000-01 vide order dated 05.03.2003 u/s. 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act').

2. First we will take up the assessee's appeal in ITA No.2834/Chny/2017. The first issue in this appeal of the assessee is as regards to the order of CIT(A) not adjudicating the grounds raised before him vide grounds No. 3.1 to 3.3. For this the assessee raised grounds which reads as under:

“1.1 The Learned Commissioner of Income-Tax (Appeals) was incorrect in not adjudicating the grounds No.3.1 to 3.3 taken up before him for adjudication.

1.2 The Learned CIT(A) was incorrect in coming to a conclusion that the assessee has failed to adduce any concrete evidence in support of their claim when various documents and details were filed before the Learned CIT(A).

1.3 The Learned CIT(A) erred in confirming the order of the Assessing Officer and rejecting the contentions of the assessee when the issue has been settled in favour of the assessee for the assessment year 1997-98 by the Hon'ble Income Tax Appellant Tribunal in ITA No.860/Mds/2003.”

3. Subsequently, the Ld. Counsel for the assessee he took us through the order of CIT(A), wherein the CIT(A) after taking the remand report from the Assessing Officer dated 03.09.2012 considered the issue of the claim of deduction u/s. 80HHC of the Act being 90% of the following to be reduced from profit of the business:

- a) Rent amount of Rs. 6,05,000/-
- b) Interest amount of Rs. 2,88,000/-
- c) Lease amount of Rs. 23,30,71,000/-
- d) Dividend amount of Rs. 18,70,000/-
- e) Income from units of UTI Rs. 85,50,000/-
- f) Profit on sale of assets of Rs. 5,68,000/-
- g) Miscellaneous receipts of Rs. 20,83,000/-

4. The Ld. Counsel for the assessee drew our attention to the findings of the CIT(A) which are given in para 6.1 as under:

“6.1 The assessee has failed to produce any concrete evidence in support of their claim. The Assessing Officer has correctly relied on the Hon'ble Apex Court case laws in the case of CIT Vs. Ravindranathan Nair 295 ITR 228 and rejected the contentions of the assessee. I do not find any merit in the arguments of the assessee and hence there is no reason for me to interfere with the findings of the Assessing Officer. Hence this ground of appeal of the assessee is dismissed.”

5. In view of the above, the Ld. Counsel for the assessee stated that the CIT(A) has not adjudicated the issue at all as is evident from para 6.1 of the appellate order as reproduced. He stated that there should be a speaking order on each of the item for deciding the issue. When this was pointed out to Ld. Sr. DR, she relied on para 6 and 6.1 of CIT(A) order, wherein according to her proper adjudication is done by the CIT(A).

6. After hearing both sides and gone through the facts of the case, we are of the view that the adjudication of CIT(A) lacks speaking order. Even there is no reasoning for not entertaining the claim of the assessee. We are of the view that the CIT(A) should have given some reasons for deciding the claim of the assessee. Hence, we set aside the order of CIT(A) on this issue and remand the matter back to his file for fresh adjudication. Needless to say that the CIT(A) will provide reasonable opportunity being heard to the assessee and also pass a speaking order. Hence, this issue is remitted back to the file of the CIT(A).

7. The next issue in this appeal of the assessee is as regards not allowing credit for TDS amounting to Rs. 11,173/-.

8. Both the Ld. Counsel for the assessee as well as Ld. Sr. DR agreed that the matter can go back to the file of Assessing Officer and while giving appeal effect to this order, the Assessing Officer will allow credit for TDS payments subject to verification of TDS certificates. Hence, the Assessing Officer is directed to allow the credit as per law. Hence, the appeal of the assessee is allowed for statistical purpose as indicated above.

9. Coming to the Revenue's appeal in ITA No.2775/Chny/2017. At the outset the Ld. Counsel for the assessee stated that the disallowance of expenditure on scientific research is to the extent of Rs. 40,59,000/- and tax effect in this appeal will be less than the monetary limit of ₹.50,00,000/- fixed by the CBDT to file an appeal by the Revenue before the Tribunal as per the CBDT Circular No. 17/2019, dated 08.08.2019. The Id. DR fairly conceded the submissions made by the Id. Counsel for the assessee. Being so, the Revenue authorities are precluded from filing the appeal before the Tribunal, since the tax effect is less than ₹.50,00,000/- in this appeal and the appeal filed by the Revenue is liable to be dismissed. Accordingly, the appeal filed by the Revenue is dismissed.

10. In the result, the appeal of the assessee in ITA No.2834/Chny/2017 is allowed for statistical purpose and the appeal of Revenue in ITA No.2775/Chny/2017 is dismissed.

Order pronounced on 25th day of February, 2020 in Chennai.

Sd/-

एम बाला गणेश)

(M. BALAGANESH)

लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai, दिनांक/Dated: 25th February, 2020.

EDN, Sr. P.S

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF